

Cite as 2009 Ark. 563

**SUPREME COURT OF ARKANSAS**

No. 09-141

THE RALPH LOYD MARTIN  
REVOCABLE TRUST DECLARATION  
DATED THE FIRST DAY OF APRIL 1994;  
RALPH LOYD MARTIN, TRUSTEE OF  
THE RALPH LOYD MARTIN  
REVOCABLE TRUST DECLARATION  
DATED THE FIRST DAY OF APRIL 1994;  
THE FESTUS MARY MARTIN  
REVOCABLE TRUST DECLARATION  
DATED THE FIRST DAY OF APRIL 1994;  
and FESTUS MARY MARTIN, TRUSTEE  
OF THE FESTUS MARY MARTIN  
REVOCABLE TRUST DECLARATION  
DATED THE FIRST DAY OF APRIL 1994,  
APPELLANTS,

VS.

ARKANSAS MIDSTREAM SERVICES  
CORP.,

APPELLEE,

Opinion Delivered November 12, 2009

APPEAL FROM THE WHITE COUNTY  
CIRCUIT COURT,  
NO. CV08-294,  
HON. WILLIAM PICKENS MILLS,  
JUDGE,

APPEAL DISMISSED WITHOUT  
PREJUDICE.

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**JIM HANNAH, Chief Justice**

Appellants The Ralph Loyd Martin Revocable Trust Declaration Dated The First Day  
Of April 1994; Ralph Loyd Martin, Trustee Of The Ralph Loyd Martin Revocable Trust  
Declaration Dated The First Day Of April 1994; The Festus Mary Martin Revocable Trust  
Declaration Dated The First Day Of April 1994; and Festus Mary Martin, Trustee Of The

Festus Mary Martin Revocable Trust Declaration Dated The First Day Of April 1994, appeal the December 18, 2008 order of the White County Circuit Court finding Arkansas Midstream Gas Services Corporation had the power of eminent domain to condemn and take a permanent easement and a temporary easement in appellants' land for purposes of constructing and maintaining a gas pipeline. The order entered on December 18, 2008, includes a certification purported to comply with the requirements of Arkansas Rule of Civil Procedure 54(b)(1), stating in pertinent part as follows:

With respect to the issues determined in the above final order, the Court incorporates the findings of fact set forth above.

Upon the basis of the foregoing factual findings, the Court hereby certified, in accordance with Rule 54(b)(1), Ark. R. Civ. P., that it has determined that there is no just reason for the delay of the entry of a final judgment and that the Court has and does direct that the judgment shall be a final judgment for all purposes.

This certificate fails to comply with the requirements of Rule 54(b)(1) because it fails to set out the factual underpinnings as to why a hardship or injustice would result if an immediate appeal is not permitted. *See Kowalski v. Rose Drugs of Dardanelle, Inc.*, 2009 Ark. 524, \_\_\_ S.W.3d \_\_\_; *Howard v. The Dallas Morning News, Inc.*, 324 Ark. 91, 97, 918 S.W.2d 178, 181 (1996). Due to noncompliance with Rule 54(b)(1), we lack jurisdiction. *See McKinney v. Bishop*, 369 Ark. 191, 194, 252 S.W.3d 123, 125 (2007). Accordingly, we dismiss this appeal without prejudice.

IMBER, J., not participating.